

Applicant: S. Jayaraman
Application No.: 09/941,327
Examiner: V. Bui

Election/Restriction:

If no generic claim is finally held to be allowable, Applicant hereby provisionally elects, with traverse, the following species with reference to the categories set forth in the Office Action: Species I.

In accordance with the Examiner's request, Applicant respectfully submits that claims 1, 2, 12-15, 17, 23-27, 29-31, and 37 read on the elected species.

REMARKS

Claims 1, 2, 12-15, 17, and 23-27, and 29-37 are pending in the application and are presented for the Examiner's review and consideration. Applicant has provisionally elected Species I, with traverse. Further, Applicant has provided a list of all claims readable thereon.

Applicant traverses the election of the species requirement, as the restriction requirement is improper. An application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent or distinct. MPEP §803. If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. MPEP §803.

The Examiner identified Species I as "stent with layer(s) of drug having varying drug concentration" and Species II as "stent with layers having varying thickness." Both Species I and II would be classified in class 623, entitled Prosthesis (i.e., Artificial Body Members), Parts Thereof, or Aids and Accessories Therefor, and in subclasses 1.42 (Drug delivery), 1.44 (Having plural layers), 1.45 (Impregnation), and 1.46 (Coating).

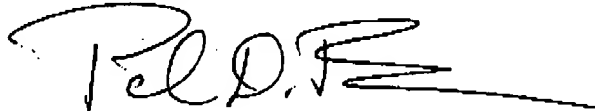
Thus, regardless of whether all claims are examined together or separately, a review of class 623, subclasses 1.42, 1.44, 1.45, and 1.46 is required. As such, the search and examination can be made without a serious burden. Accordingly, an examination of all claims on the merits is required, even if the application includes claims to distinct or independent inventions. See MPEP § 803.

In light of the foregoing remarks, this application is now in condition for an examination

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on the merits, and early action is respectfully requested. If any questions remain regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned. Please charge any required fee (or credit any overpayments of fees) to the Deposit Account of the undersigned, Account No. 500601 (Docket no. 795-A02-006).

Respectfully submitted,



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